

*Status: Point in time view as at 01/10/2009.*

*Changes to legislation: Legal Aid (Scotland) Act 1986, Part II is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 2

#### PART II

##### EXCEPTED PROCEEDINGS

- 1 Subject to [<sup>F1</sup>section 14(1C) and] paragraph 2 below, civil legal aid shall not be available in proceedings which are wholly or partly concerned with defamation or verbal injury.

##### Textual Amendments

- F1** Words in Sch. 2 Pt. II para. 1 inserted (8.2.2007) by Legal Profession and Legal Aid (Scotland) Act 2007, {arts. 71(3)(a)}, 82(2) (with s. 77); S.S.I. 2007/57, **art. 2(b)**

- 2 The making of a counterclaim for defamation or verbal injury in any proceedings shall not of itself affect the availability of legal aid to the other party <sup>F2</sup>. . . .

##### Textual Amendments

- F2** Words in Sch. 2 Pt. II para. 2 repealed (8.2.2007) by Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), **ss. 71(3)(b), 82(2)** (with s. 77); S.I. 2007/57, **art. 2(b)**

- [<sup>F3</sup> Civil legal aid shall not be available in relation to —
- (a) election petitions under the Representation of the People Act 1983 <sup>M1</sup>;
  - (b) simplified divorce applications under the Rules of Procedure of the Court of Session or the sheriff court;
  - (c) small claims processes at first instance under section 35(2) of the Sheriff Courts (Scotland) Act 1971 <sup>M2</sup> summary causes); and
  - (d) petitions by a debtor for the sequestration of his estate under section 5(2) (a) of the Bankruptcy (Scotland) Act 1985 <sup>M3</sup>.]

##### Textual Amendments

- F3** Sch. 2 Pt. II para. 3 substituted (1.4.1993) by S.I. 1993/969, **reg. 2**

##### Marginal Citations

- M1** 1983 c. 2  
**M2** 1971 c. 58; section 35(2) was substituted by section 18(1) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73).  
**M3** Section 5(2)(a) amended by section 3(2) of the Bankruptcy (Scotland) Act 1993 (c. 6).

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[<sup>F4</sup> Subject to paragraph 5 below, civil legal aid shall not be available in relation to proceedings at first instance under the Debtors (Scotland) Act <sup>M4</sup>1987, [<sup>F5</sup> or Part 2 or 3 of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17)] other than proceedings in connection with an application under section 1(1) or 3(1) of that Act [<sup>F6</sup> of 1987] to a Lord Ordinary or to the sheriff in an ordinary cause.]

#### Textual Amendments

- F4** Sch. 2 Pt. II paras. 4, 5 added by [Debtors \(Scotland\) Act 1987 \(c. 18, SIF 45:2\)](#), ss. 98, 108(2), [Sch. 1 para. 5](#)
- F5** Words inserted (30.12.2002) by [Debt Arrangement and Attachment \(Scotland\) Act 2002 \(asp 17\)](#), s. [44\(a\)\(i\)](#)
- F6** Words inserted (30.12.2002) by [Debt Arrangement and Attachment \(Scotland\) Act 2002 \(asp 17\)](#), s. [44\(a\)\(ii\)](#)

#### Marginal Citations

- M4** [1987 c.18 \(45:2\)](#).

5 Nothing in paragraph 4 above shall preclude any third party to proceedings under the Debtors (Scotland) Act <sup>M5</sup>1987 [<sup>F7</sup> or Part 2 or 3 of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17)] from obtaining legal aid in connection with those proceedings.

#### Textual Amendments

- F7** Words inserted (30.12.2002) by [Debt Arrangement and Attachment \(Scotland\) Act 2002 \(asp 17\)](#), s. [44\(b\)](#)

#### Marginal Citations

- M5** [1987 c.18 \(45:2\)](#).

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